

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
HUNTINGTON DIVISION**

GENBIOPRO, INC.,

Plaintiff,

v.

Civil Action No. 3:23-cv-00058

MARK A. SORSAIA, in his official capacity, AND PATRICK MORRISEY, in his official capacity,

Hon. Robert C. Chambers

Defendants.

MOTION TO DISMISS

Defendant, Patrick Morrisey, in his official capacity as Attorney General of the State of West Virginia, respectfully moves this Court under Fed. R. Civ. P. 12(b) for an order dismissing Plaintiff's complaint. As further explained in the Memorandum in Support of this Motion filed contemporaneously herewith, dismissal is proper here because Plaintiff lacks standing, as it has not shown an injury in fact or redressability, *see* Fed. R. Civ. P. 12(b)(1), and Plaintiff fails to state claims upon which relief may be granted, *see* Fed. R. Civ. P. 12(b)(6).

For these reasons, as laid out in full in the accompanying memorandum in support, the Court should dismiss the Complaint.

Respectfully submitted,

By counsel,

**PATRICK MORRISEY
*West Virginia Attorney General***

/s/ *Curtis R. A. Capehart*

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Counsel for Defendant, Patrick Morrisey, in his official capacity as Attorney General of the State of West Virginia

DATE: February 21, 2023

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CERTIFICATE OF SERVICE

I hereby certify that, on this 21st day of February, I electronically filed the foregoing “Motion to Dismiss” with the Clerk of Court and all parties using the CM/ECF System.

/s/ Curtis R. A. Capehart _____

Curtis R. A. Capehart
Deputy Attorney General